U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

(b)(6)

U.S. Citizenship and Immigration Services

[redacted]

DATE: JAN 16 2015 OFFICE: TEXAS SERVICE CENTER [redacted]

IN RE: Petitioner: [redacted]
Beneficiary:

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at http://www.uscis.gov/forms for the latest information on fee, filing location, and other requirements.** *See also* 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office on appeal. We will dismiss the appeal.

The petitioner seeks classification under section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2), as an alien of exceptional ability in the arts. The petitioner states that he seeks employment as a "violinist/teacher/conductor," but his evidence heavily emphasizes teaching. His recent conducting work, for instance, appears to have been confined to recitals by ensembles that include his own students. The petitioner asserts that an exemption from the requirement of a job offer, and thus of a labor certification, is in the national interest of the United States. The director found that the petitioner failed to establish eligibility both for the classification sought, and for the exemption from the requirement of a job offer.

On appeal, the petitioner submits a statement and copies of previously submitted materials.

Previously, an accredited representative of the represented the petitioner in this proceeding. Form I-290B, Notice of Appeal or Motion, advises that accredited representatives "must attach a Form G-28, Notice of Entry of Appearance as Attorney or Representative" to the appeal, as required by the regulation at 8 C.F.R. § 292.4(a). The appeal does not include this form, and there is no evidence that Ms. Pazmiño participated in preparing or filing the appeal. We will therefore consider the petitioner to be self-represented on appeal.

Section 203(b) of the Act states, in pertinent part:

> (2) Aliens Who Are Members of the Professions Holding Advanced Degrees or Aliens of Exceptional Ability. –
>
> > (A) In General. – Visas shall be made available . . . to qualified immigrants who are members of the professions holding advanced degrees or their equivalent or who because of their exceptional ability in the sciences, arts, or business, will substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States, and whose services in the sciences, arts, professions, or business are sought by an employer in the United States.
> >
> > (B) Waiver of Job Offer –
> >
> > > (i) . . . the Attorney General may, when the Attorney General deems it to be in the national interest, waive the requirements of subparagraph (A) that an alien's services in the sciences, arts, professions, or business be sought by an employer in the United States.

The director denied the petition on two grounds: (1) the petitioner did not establish eligibility for classification as an alien of exceptional ability, and (2) the petitioner did not establish that a waiver of the job offer requirement would serve the national interest.

I. Exceptional Ability

a. Regulatory Criteria

The regulation at 8 C.F.R. § 204.5(k)(3)(ii) states that, to establish exceptional ability in the sciences, arts, or business, the petition must be accompanied by at least three of the following:

> (A) An official academic record showing that the alien has a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning relating to the area of exceptional ability;
>
> (B) Evidence in the form of letter(s) from current or former employer(s) showing that the alien has at least ten years of full-time experience in the occupation for which he or she is being sought;
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> (C) A license to practice the profession or certification for a particular profession or occupation;
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> (D) Evidence that the alien has commanded a salary, or other remuneration for services, which demonstrates exceptional ability;
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> (E) Evidence of membership in professional associations; or
>
> (F) Evidence of recognition for achievements and significant contributions to the industry or field by peers, governmental entities, or professional or business organizations.

If the petitioner has submitted sufficient evidence to meet the plain wording of at least three of the above standards, U.S. Citizenship and Immigration Services (USCIS) makes a final merits determination as to whether the evidence demonstrates "a degree of expertise significantly above that ordinarily encountered." 8 C.F.R. § 204.5(k)(2); *cf. Kazarian v. USCIS*, 596 F.3d 1115, 1121-22 (9th Cir. 2010) (meeting regulatory criteria in isolation is not sufficient; the record as a whole must establish that the petitioner meets the regulatory definition of the classification sought).

Following a summary of the chronology of the proceeding, we will address the petitioner's evidence. The petitioner filed the Form I-140, Immigrant Petition for Alien Worker, on April 1, 2013. An introductory letter submitted with the petition indicated that the petitioner "has demonstrated exceptional ability as a violinist," but the petitioner did not address the regulatory standards for exceptional ability.

On June 25, 2013, the director issued a request for evidence (RFE), indicating that the petitioner had met criteria (A), (B) and (F) listed above, but that the totality of the evidence did not suffice to establish exceptional ability.[1] The cover letter accompanying the petitioner's response to the RFE summarized the evidence included, but this summary directly addressed only one of the regulatory criteria, (E), pertaining to memberships in professional associations.

The director denied the petition on June 17, 2014, stating that the petitioner had attempted to meet criteria (A), (B), and (F), but had met only the first two. The director withdrew the earlier finding, in the RFE, that the petitioner had also met criterion (F). On appeal, the petitioner claims: "I may have met . . . all six criteria for exceptional ability." Below, we will address all six of the criteria, along with the evidence the petitioner has submitted and cited with regard to each of them.

> *An official academic record showing that the alien has a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning relating to the area of exceptional ability.* 8 C.F.R. § 204.5(k)(3)(ii)(A)

The petitioner earned a Bachelor of Music degree from in 2002, which satisfies the plain wording of the regulation.

> *Evidence in the form of letter(s) from current or former employer(s) showing that the alien has at least ten years of full-time experience in the occupation for which he or she is being sought.* 8 C.F.R. § 204.5(k)(3)(ii)(B)

The director concluded that the petitioner had met this criterion with two pieces of evidence: "[a] self-written statement" and "[a] support letter from dated June 4, 2009." These materials, however, do not meet the plain wording of the regulatory criterion. The petitioner does not claim to have been self-employed, and therefore his own statement is not a letter from an employer.

The petitioner worked for from 2001 to 2010, a period of less than ten years. The June 4, 2009 letter mentioned by the director is from director of human resources. The original purpose of the letter was to support a petition to extend the petitioner's H-1B nonimmigrant status. Mr. stated:

> [The petitioner] has more than thirty (30) years of highly relevant professional teaching and performance experience. Specifically, [the petitioner] was a with the orchestra of as well as Then, [the petitioner] was a and Teacher

[1] The petitioner responded to the June 2013 RFE on July 23, 2013. On December 9, 2013, the director reissued the RFE, stating "the evidence was never matched with the file and the evidence is lost," and requesting that the petitioner submit a new copy of the RFE response. The petitioner complied with this request on January 17, 2014. The petitioner's July 2013 response to the June 2013 RFE has since resurfaced, and the AAO has incorporated it into the record of proceeding.

> with the . Additionally, he was a member of the
>
> From 2001 to the present, [the petitioner] has been a Teacher at the Conservatory teaching

Neither Mr. nor any other official claimed direct, personal knowledge of the petitioner's earlier employment in China. The officials also did not provide any evidence from the petitioner's earlier employers. Without such knowledge or evidence, officials are in a position to attest only to the petitioner's employment at

Mr. stated: ' . . . continues to offer [the petitioner] the temporary, full-time position," but did not specify whether the petitioner's past employment was full-time. The petitioner himself described the position as part-time. On Form ETA-750B, Statement of Qualifications of Alien, the petitioner stated that he worked 25 hours per week, as an adjunct professor at from an unspecified point in 2001 to April 2010. (An April 23, 2010 letter from Mr. informed the petitioner that, owing to the expiration of his H-1B nonimmigrant status, he was "no longer permitted to work at the college after 4/25/2010.")

Line 15 of Form ETA-750B instructed the petitioner to "[l]ist all jobs held during the last three (3) years"; the petitioner identified no other employment during that period. On his résumé, the petitioner claimed several other "Work Positions" from 2006 to 2010, such as ' but the petitioner did not claim or establish that these positions were independent of his employment at rather than ancillary activities linked to that employment.

The petitioner submitted a translation of an undated letter from the The regulation at 8 C.F.R. § 103.2(b)(3) requires that any document containing foreign language submitted to USCIS shall be accompanied by a full English language translation which the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English. The translation in question is not certified in the required manner. The letter indicates that the petitioner "became a of [the] Ensemble in 1976," but specified no ending date. The letter does not specifically claim that the petitioner worked full-time, or even that his work with the Ensemble took the form of paid employment. Without this basic information, the petitioner has not shown that this letter is a letter from a former employer, showing that he has at least ten years of full-time experience in the occupation.

For the reasons discussed above, the record does not support the director's finding that the petitioner has submitted the required evidence of at least ten years of full-time experience.

> *A license to practice the profession or certification for a particular profession or occupation.* 8 C.F.R. § 204.5(k)(3)(ii)(C)

The petitioner's initial submission included an uncertified translation of "Credentials of Professional and Technical Posts," which, the petitioner claims, was issued by on May 1, 1989. The uncertified translation indicates that the petitioner "is acknowledged as a qualified grade 4 violinist by for Liberians [*sic*], Musician [*sic*] and Artists on October 5, 1988. (Equivalent to the title of an assistant research fellow at college graduate level.)" In the absence of the certified translation required by 8 C.F.R. § 103.2(b)(3), this document fails to meet basic evidentiary requirements.

Furthermore, the stated equivalency to "an assistant research fellow at [the] college graduate level" indicates a reference not to certification for a profession or occupation, but rather to a level of advanced training in preparation for future employment. Other exhibits are consistent with this interpretation. Several of the petitioner's professors in China attested, in letters from 1991 and 1992, to the petitioner's desire to continue his studies, and the record shows that he earned associate's and bachelor's degrees several years later, in 2000 and 2002, respectively.

For the above reasons, the petitioner has not shown that the "Credentials" document constitutes certification for a particular profession or occupation.

> *Evidence that the alien has commanded a salary, or other remuneration for services, which demonstrates exceptional ability.* 8 C.F.R. § 204.5(k)(3)(ii)(D)

The only indication of the petitioner's compensation is James Tometsko's June 2009 letter, indicating that the petitioner's "full-time position of Violin Teacher/Conductor" would pay "an annual salary of $32,074." The petitioner has not established that this salary demonstrates exceptional ability.

> *Evidence of membership in professional associations.* 8 C.F.R. § 204.5(k)(3)(ii)(E)

The petitioner's initial submission did not address this requirement. In response to the June 2013 RFE, the petitioner submitted an untranslated photocopy of a document that the petitioner identified as his membership certificate from the Without a certified translation, this document is deficient as evidence. The record also does not establish that the Academy is an association rather than some other type of organization, such as a school, that might also use the term "academy" in its name.

The petitioner also, however, submitted a partial photocopy of the 2010 Teacher Directory of the indicating that he had been a "member since 2003." This document appears to satisfy the plain wording of the regulation.

> *Evidence of recognition for achievements and significant contributions to the industry or field by peers, governmental entities, or professional or business organizations.* 8 C.F.R. § 204.5(k)(3)(ii)(F)

The record contains no evidence that governmental entities or professional or business organizations have recognized the petitioner for achievements or significant contributions to his field. The petitioner submitted photographs and newspaper articles showing that some of his students have won local competitions, but the success of his students is not recognition of the petitioner for his own achievements or contributions.

The petitioner submitted several letters, written over a span of six years between 2007 and 2013. These letters express general support for the petitioner but they do not identify specific achievements and specific contributions to the field. General statements of praise for the petitioner's "very strong work ethic" and being "an ambitious problem solver" cannot suffice in this regard.

Also, many of the letters are not from peers, as the regulation requires, but from former students, parents of students, and other members of the community. Two of the letters are from members of Congress, neither of whom mentioned achievements or contributions, but instead called the petitioner "a great asset to the music community."

In the June 2013 RFE, the director stated, without elaboration, that "[t]his criterion has been met," but reversed that finding in the June 2014 denial notice, stating: "The evidence provided is not clear to show that the petitioner has recognized achievements and significant contributions to the industry. His ability as a Teacher has been noted as well as the accomplishments of his students. However, this does not suffice to meet the criterion."

On appeal, the petitioner states: "I have letters from field [*sic*] by peers, governmental entities, processional [*sic*] and business organizations." The petitioner does not elaborate on this point. The director, in the denial notice, acknowledged the letters, but found them insufficient. The petitioner's assertion that he submitted letters, therefore, does not rebut or overcome this finding.

The petitioner, on appeal, does not identify any specific achievements and contributions to the field, or any evidence in the record that would show or constitute recognition for those achievements and contributions. To be an experienced musician is not inherently an achievement or contribution, and neither is being locally well regarded as a music teacher.

b. Final Merits Determination

As stated above, the petitioner has claimed to have met all six regulatory criteria at 8 C.F.R. § 204.5(k)(3)(ii), but the evidence of record is sufficient to meet only two criteria, at (A) and (E). Because the director granted a third criterion, (B), in the denial notice, we will briefly discuss the overall merits of the exceptional ability claim although we have withdrawn that third criterion.

The petitioner has met the plain wording of criterion (A) by documenting a Bachelor of Music degree from which he earned in 2002 while he was also teaching there. This is undoubtedly a degree relating to the area of claimed exceptional ability, but the petitioner has not

established that a bachelor's degree represents a degree of expertise significantly above that ordinarily encountered in the field. The petitioner provided no evidence about the usual academic background or credentials of violin teachers and conductors.

The petitioner's experience appears to extend back to the 1970s, which warrants some consideration, but the petitioner has not established how much, if any, of that experience took the form of full-time employment. Furthermore, some of his experience was as a musician in his own right, and other experience was as a teacher; the petitioner has sought to combine all of this experience together and claim eligibility as a "violinist/teacher/conductor."

Assuming that the petitioner's "Credentials of Professional and Technical Posts" does amount to certification for a particular occupation ("as a qualified grade 4 violinist"), the petitioner has not established the requirements to qualify for that credential, or that the ability to meet those requirements demonstrates a degree of expertise significantly above that ordinarily encountered in the field.

The record indicates that offered the petitioner "an annual salary of $32,074" in 2009, at a time when the petitioner claimed over 30 years of experience in his field. This level of offered compensation does not readily suggest an exceptional level of expertise.

The petitioner met the plain wording of criterion (E) by submitting evidence of his membership in the and other evidence, if properly translated, might also establish membership in the . Were we to assume that the Academy is an association in the petitioner's field, it would remain that the petitioner has not established the requirements for admission to membership in either of these associations. If, for instance, one is eligible for membership in the simply by being a music teacher in the area, then this membership would not demonstrate a degree of expertise significantly above that ordinarily encountered among music teachers. The petitioner has not met his burden of proof in this regard.

The petitioner claims to have met criterion (F), evidence of recognition for achievements and significant contributions to the industry or field by peers, governmental entities, or professional or business organizations, but he has not identified the achievements or significant contributions for which he claims recognition. The record shows that the petitioner is an accomplished and experienced musician and teacher, but success at one's job is not inherently an achievement or significant contribution to the field. The record indicates that several of the petitioner's students have won scholarships, but the petitioner has provided no evidence to show that the proportion of his students who have done so significantly exceeds that of other music teachers similarly employed. Likewise, the petitioner's documented conducting work is limited to a small number of student recitals and seasonal concerts by local youth orchestras, and he has not shown that these events establish a degree of expertise significantly above that ordinarily encountered among conductors.

The petitioner has established a long career in the arts, and a reputation as a valued member of the local

cultural community in The evidence submitted, however, is not sufficient to establish that the petitioner qualifies for classification as an alien of exceptional ability in the arts.

II. National Interest Waiver

The remaining question is whether the petitioner has established that a waiver of the job offer requirement, and thus a labor certification, is in the national interest.

Neither the statute nor the pertinent regulations define the term "national interest." Additionally, Congress did not provide a specific definition of "in the national interest." The Committee on the Judiciary merely noted in its report to the Senate that the committee had "focused on national interest by increasing the number and proportion of visas for immigrants who would benefit the United States economically and otherwise. . . ." S. Rep. No. 55, 101st Cong., 1st Sess., 11 (1989).

Supplementary information to regulations implementing the Immigration Act of 1990, Pub. L. 101-649, 104 Stat. 4978 (Nov. 29, 1990), published at 56 Fed. Reg. 60897, 60900 (Nov. 29, 1991), states:

> The Service [now USCIS] believes it appropriate to leave the application of this test as flexible as possible, although clearly an alien seeking to meet the [national interest] standard must make a showing significantly above that necessary to prove the "prospective national benefit" [required of aliens seeking to qualify as "exceptional."] The burden will rest with the alien to establish that exemption from, or waiver of, the job offer will be in the national interest. Each case is to be judged on its own merits.

In re New York State Dep't of Transportation, 22 I&N Dec. 215, 217-18 (Act. Assoc. Comm'r 1998) (*NYSDOT*), has set forth several factors which must be considered when evaluating a request for a national interest waiver. First, a petitioner must establish that the alien seeks employment in an area of substantial intrinsic merit. *Id.* at 217. Next, a petitioner must establish that the proposed benefit will be national in scope. *Id.* Finally, the petitioner seeking the waiver must establish that the alien will serve the national interest to a substantially greater degree than would an available U.S. worker having the same minimum qualifications. *Id.* at 217-18.

While the national interest waiver hinges on prospective national benefit, the petitioner must establish that the alien's past record justifies projections of future benefit to the national interest. *Id.* at 219. The petitioner's assurance that the alien will, in the future, serve the national interest cannot suffice to establish prospective national benefit. The term "prospective" is included here to require future contributions by the alien, rather than to facilitate the entry of an alien with no demonstrable prior achievements, and whose benefit to the national interest would thus be entirely speculative. *Id.*

The regulation at 8 C.F.R. § 204.5(k)(2) defines "exceptional ability" as "a degree of expertise significantly above that ordinarily encountered" in a given area of endeavor. By statute, aliens of exceptional ability are generally subject to the job offer/labor certification requirement; they are not

exempt by virtue of their exceptional ability. Therefore, whether a given alien seeks classification as an alien of exceptional ability, or as a member of the professions holding an advanced degree, that alien cannot qualify for a waiver just by demonstrating a degree of expertise significantly above that ordinarily encountered in his or her field of expertise.

The intrinsic merit of music and its teaching is not in dispute. To qualify for the waiver, however, the petitioner must also satisfy the remaining two prongs of the *NYSDOT* national interest test, concerning national scope and impact on the field.

Ms. in her initial statement, explained why the petitioner seeks the national interest waiver:

> [The petitioner] is interested in using his skills to further the arts by having the opportunity to give private lessons and conduct ensembles that are comprised of deserving individuals who have demonstrated ability and dedication to excellence in playing As many of his letters of support state, he has a special ability to play music that is possessed by few musicians. In addition to his playing ability, his students report that he also has a special ability to help them achieve a higher level of excellence in their performance.
>
> . . . We would assert that [the petitioner] did have significant impact in the music field. He was, however, employed with an H1B visa that tied him to and restricted his impact to the geographical area served by that college. You will note that some students who have studied there have moved into different states and have since extended his impact. If his [Forms] I-140 and I-485 [Application to Register Permanent Residence or Adjust Status] are approved, [the petitioner] wishes to support himself by accepting private students and to serve as conductor for all those who wish to employ him. He would then be free to widen his scope to a national level.

The above statement is essentially an acknowledgment that the petitioner has not yet produced benefits that are national in scope, coupled with the assertion that the scope will eventually widen under future circumstances that do not yet exist. An applicant or petitioner must establish that he or she is eligible for the requested benefit at the time of filing the benefit request. 8 C.F.R. § 103.2(b)(1). USCIS will not grant the waiver in order to create the conditions for the petitioner to meet the guidelines set forth in *NYSDOT*.

While the petitioner's former students may have dispersed to other parts of the United States, he is no longer teaching them. Furthermore, the petitioner has not established that he has taught, or can teach, so great a number of students that the collective impact will be nationally significant, whatever their geographic distribution.

A conductor might have a national influence, for instance by leading a nationally prominent symphony orchestra. The petitioner, however, has not established that he has ever conducted at that

level, or that any prominent orchestra has sought his services in that capacity. The decision for him to conduct at a nationally significant level would not be the petitioner's alone to make, and therefore his own aspirations and ambitions in that regard cannot serve to establish that the petitioner's goals are realistic. *NYSDOT* specifies that the "prospective . . . benefit to the national interest [should not] be entirely speculative." *Id.* at 219.

The petitioner submitted several letters, describing his work in varying degrees of detail. The letters are all from current or former residents of the area, with demonstrable ties to the petitioner. Therefore, the letters do not show first-hand that the petitioner's work has had more than a local impact. We discuss examples of these letters below.

Dr. professor of chemistry at and an amateur violinist, stated:

> [The petitioner's] students have routinely been awarded top positions in music competitions and have been accepted in the best music schools in the country. No other teacher in the tri-state area (Pa., New York, Ohio) has achieved what [the petitioner] has achieved.
>
> He also has superior teaching methods that move students along faster (about 2 to 3 times faster) tha[n] other violin teachers. . . .
>
> He has also had a great positive impact on the different community musical organizations he has been involved with. His participation has resulted in an improvement in the quality of the organization and a marked increase in the number of students participating.
>
> [The petitioner] has demonstrated his ability to affect the national interest by preparing and sending students to the best music schools throughout the country.

Sister former director of music department and stated:

> Since [the petitioner] began teaching in the Conservatory, the number of his string students has increased each year. Wherever the students attend schools, they are the best performers in the groups in which they participate. They have been chosen to be concertmasters, section leaders and soloists. A number of students have won competitions, and some students have received scholarships from colleges and universities.

The record contains newspaper clippings showing that some of the petitioner's students have won scholarships, but the evidence is not sufficient to show that the petitioner's students have consistently outperformed those of other violin teachers in the region. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in

these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg'l Comm'r 1972)). Furthermore, the direct impact of the petitioner's teaching ability is limited to his own students. With regard to the claim that the petitioner's teaching methods are superior to those of other techniques, the propagation of new teaching methods can have a national effect, but the petitioner submitted no evidence that other music teachers have adopted his methods. In the petitioner's case, the potential for impact has not, so far, translated into actual impact beyond

a parent of one of the petitioner's students, acknowledged the local nature of the petitioner's efforts:

> It will be a devastating blow to the community and surrounding area of if [the petitioner] is not granted the necessary status to remain in the United States. . . . Unfortunately, the community of has difficulty attracting talent such as [the petitioner's]. . . . We have a nickname of "I" . . . The arts in the community have deteriorated and need[] strengthening.

As noted above, the petitioner, through his representative, has acknowledged that his work was confined to because of restrictions on his H-1B nonimmigrant status, and that he seeks the waiver in part to escape those restrictions and "widen his scope to a national level" rather than remain "tied . . . to"

In the June 2013 RFE, the director instructed the petitioner to document "a past record of specific prior achievement with some degree of influence on the field as a whole." In response, the petitioner stated that his "work extends benefits beyond our geographic location" because he has taught students from many different states, and even different countries. The record does not fully support this claim, and even then, the dispersal of a small number of students over a wide area dilutes rather than multiplies the petitioner's impact.

The petitioner asserted: "American students respond well to my unique teaching method. The results indicate that my students learn faster; have a higher technique, and they achieve a higher quality of musical ability." The petitioner claimed that one of his former students, "has used [the petitioner's] teaching method" as a student teacher at and the , and "has received a Student Affairs Outstanding Service Award from . . . [the] " A printout of Ms. résumé from the web site shows information about her student work. The record contains no evidence to show that Ms. has adopted the petitioner's teaching method, but such evidence would not establish implementation of that method at a nationally significant level. Information regarding the superiority of the petitioner's method is minimal and anecdotal.

The petitioner's response included information about some of his students, such as a captioned photograph from the indicating that seven young musicians "performed in an awards recital at . The petitioner identified two of the

musicians as his students. Another local newspaper article indicated that "about 100 onlookers . . . attended a concert" performed by "12 exchange students from sister city of China . . . conducted by [the petitioner]."

Denying the petition on June 17, 2014, the director found that the petitioner had not established that the benefit from his work would be national in scope, or that he has a past history of influential achievement. On appeal, the petitioner claims that "[a] musician and/or Artist can not easily be compared to other qualified U.S. musicians and music teachers," but then makes just such a comparison, asserting:

> I have been living in this country for 20 years and teaching in New York and Pennsylvania. During this time I have demonstrated that my teaching is far superior to other violin teachers. I can say this because many of my students over the years have come to me after having studied with the other "qualified by training" violin teachers. Within a very short time these new students showed a marked improvement in their playing ability as demonstrated by their successes in various violin performance and competitions.
>
> . . . In short, my students have always won more competitions and they always have higher scores than the other teachers [in] the same area.

The petitioner has submitted copies of five evaluations conducted by the showing scores of 26 and 27 out of 28, and 97, 97 and 99 out of 100. These are clearly high scores, but the petitioner did not show that his students consistently ranked higher than others evaluated at the same time and at the same level. The petitioner did not document the scores of other students (either his own or those of other teachers), and therefore he did not show that the five documented scores are either (1) characteristic of his students' scores, or (2) superior to the scores of students of other teachers.

The petitioner asserts that even "the greatest violin teacher " began in obscurity before becoming "one of the most influential violin teacher[s] of the Twentieth Century." This establishes that a violin teacher can become influential in his field, but this potential, alone, is not a basis for the national interest waiver. The petitioner acknowledges that he has been "in this country for 20 years," and he has not established significant impact outside of Speculation that he will eventually achieve greater recognition has no weight as evidence. *See Matter of Soffici*, 22 I&N Dec. at 165.

The petitioner cites letters showing that some students traveled great distances to study under him, and that his results have impressed "even . . . teachers who have music degrees from the best music schools." There is no doubt that the petitioner's work has impressed several of the people with whom he has crossed paths, but these subjective reports do not establish impact or influence on the field. To qualify for the national interest waiver, the petitioner need not be "one of the most

influential" figures in his field, but the evidence must rise above anecdotal and selective reports about the achievements of a handful of current and former students.

The petitioner has not established a past record of achievement at a level that would justify a waiver of the job offer requirement. The petitioner need not demonstrate notoriety on the scale of national acclaim, but the national interest waiver contemplates that his influence be national in scope. *NYSDOT*, 22 I&N Dec. at 217, n.3. More specifically, the petitioner "must clearly present a significant benefit to the field of endeavor." *Id.* at 218. *See also id.* at 219, n.6 (the alien must have "a past history of demonstrable achievement with some degree of influence on the field as a whole").

As is clear from the statute, it was not the intent of Congress that every person qualified to engage in a profession in the United States should be exempt from the requirement of a job offer based on national interest. Likewise, it does not appear to have been the intent of Congress to grant national interest waivers on the basis of the overall importance of a given profession, rather than on the merits of the individual alien. On the basis of the evidence submitted, the petitioner has not established that a waiver of the requirement of an approved labor certification will be in the national interest of the United States.

We will dismiss the appeal for the above stated reasons, with each considered as an independent and alternate basis for the decision. In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, the petitioner has not met that burden.

ORDER: The appeal is dismissed.